

Texas Department of
Mental Health and Mental Retardation

Dennis R. Jones, M.S.W., M.B.A.
Commissioner

RQ-616



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September 7, 1993

The Honorable Dan Morales
Attorney General of Texas
Price Daniel Sr. Bldg.
14th & Lavaca, 8th Floor
Austin, Texas 78711

Dear General Morales:

The Texas Department of Mental Health and Mental Retardation (TDMHMR) has a contract pursuant to Texas Health and Safety Code §533.034 with Tri-County MHMR Services (Tri-County), a community center established pursuant to Texas Health and Safety Code §§534.001 et. seq., to plan, develop and provide MH and MR services. Through a contract audit, TDMHMR learned that Tri-County entered into a contract for the period of January 1, 1993 through June 30, 1993 with a former member of Tri-County's board of trustees. The contract began immediately after the member resigned (December 31, 1992) from the board, and obligated the former board member to perform services related to vocational employment for clients of the community center.

Therefore, your advice and opinion are requested with respect to the following questions:

1. Is a member of the board of trustees of a community center an "officer or employee" for the purposes of Health and Safety Code, §534.007;
2. If so, does Health and Safety Code, §534.007 preclude a former member of a community center's board of trustees from entering into any contract with the community center during the one year period described in the statute?
3. If all contracts are not precluded, what is the interpretation of the language in §534.007 that reads "relates to a program or

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FILE # ML-22233-93
I.D.# 22233

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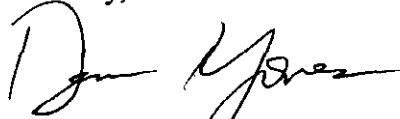
service in which the individual was directly concerned or for which the individual had administrative responsibility" as that phrase relates to a member of a community center's board of trustees, in light of the fact that §534.008 provides that the board of trustees is responsible for the effective administration of the community center?

4. Is the contract described in this request prohibited by Health and Safety Code, §534.007?

I have attached a copy of the relevant portions of the TDMHMR audit, the response to this issue submitted by the community center to TDMHMR, and the contract in question.

Your consideration of this request is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis R. Jones", written over the printed name and title.

Dennis R. Jones
Commissioner

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